

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

LESTER L. ENGLAND,

Plaintiff,

v.

DANIEL J. RODRIGUEZ *et al.*,

Defendants.

Case No. C07-5181RJB

ORDER DENYING PLAINTIFF'S
MOTION FOR APPOINTMENT
OF COUNSEL

This Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Before the court is plaintiff's motion for appointment of counsel (Dkt. # 6).

There is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(e)(1), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

Plaintiff has demonstrated an adequate ability to articulate his claims *pro se*. He names as a

1 defendant his criminal appellate counsel. An order to Show Cause has been entered in this case as criminal
2 counsel does not act under color of state law. Polk County v. Dodson, 454 U.S. 312, 317-18 (1981).
3 Thus, it appears that this case does not involve exceptional circumstances which warrant appointment of
4 counsel. Accordingly, Plaintiff's Motion to Appoint Counsel (Dkt. # 6) is **DENIED**.

5 The Clerk is directed to send a copy of this Order to plaintiff.

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7 DATED this 5 day of June, 2007.

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9 /S/ J. Kelley Arnold
10 J. Kelley Arnold
United States Magistrate Judge
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